

REMARKS:

The forgoing amendments amended claims 1-4, 6, 9, 11, 13, 15, 16, and 18-26. In these amendments, the expression "communication period" was changed to -- ownership communication --. Support for this limitation can be found throughout the present specification disclosure. For example, the second complete paragraph on page 6 of the specification discusses resale/transfer of the terminal. In addition, the foregoing amendments changed the expressions in applicant's claims to define that the server "is configured to" operate in the manners required in the claims. These amendments were made in response to the comments set forth in the Official action concerning the wherein clauses not further limiting applicants claims, citing M.P.E.P. §2114.

Claims 1-4, 6, 9, 11, 13, and 15-26 remain in the application for consideration by the examiner. Applicant respectfully requests reconsideration and allowance of these claims for at least the following reasons.

Applicant greatly appreciates the courtesies extended by Jonathan M. Dager to the undersigned in telephone interviews on January 23 and 24, 2008. During the telephone interviews, the teachings of U.S. Patent No. 6,611,755 of Coffee *et al.* (Coffee) and U.S. Patent Publication No. 2004/0122561 of Fujinuma *et al.* (Fujinuma) were discussed, together with the proposed amendments to claims 1 and 2, which are included in the foregoing listing of claims. The examiner stated that Coffee does not appear to disclose the embodiment in proposed amended claim 1. The examiner continued that it would appear that the amendments to the claim would overcome the previous rejection cited in the Office action. The examiner also stated that the

amendment to claim 2 concerning the use of the language "is configured to" is acceptable and in accordance with M.P.E.P. §2114.

The Official action included a prior art rejection of claims 1-4, 6, 9, 11, 13, and 15-26 under 35 U.S.C. §103(a) as being unpatentable over Coffee in view of Fujinuma. This rejection is set forth on pages 3-13 of the Official action and includes the newly cited teachings of Coffee and Fujinuma. Applicant respectfully submits that the inventions defined in claims 1-4, 6, 9, 11, 13, and 15-26 are patently distinguishable from the teachings of Coffee and Fujinuma within the meaning of 35 U.S.C. §103 for at least the following reasons.

As discussed during the telephone interviews with the examiner, the teachings of Coffee and Fujinuma do not remotely contemplate or suggest an arrangement or combination of a construction machine management system comprising, *inter alia*, a terminal having a unique and fixed identifier that is provided on a construction machine and a server associating the unique and fixed identifier with the terminal, setting a start and an end of an ownership communication period and associating the ownership communication period with the terminal, as required in present independent claims 1, 16, and 22. In the presently claimed invention, a period of ownership (such as when a user buys or rents the terminal) is associated with the terminal by the server. Neither Coffee nor Fujinuma contemplates or suggests such an arrangement of structures. Therefore, applicant respectfully submits that independent claims 1, 16, and 22 and the claims that depend thereon are patently distinguishable from the teachings of Coffee and Fujinuma within the meaning of 35 U.S.C. §103. Accordingly, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

The applicant also cannot find where the teachings of Coffee teach the multitude of operations/functions for the server or server means as required in the present claims associated with an ownership communication period. For example, applicant can find no discussion in the teachings of Coffee and Fujinuma explaining the notification of a user that the ownership communication period is ending when the ownership communication period ends, as required in all the independent claims.

The Official action acknowledged that Coffee does not disclose that the mobile data terminal (MDT) therein, which apparently was equated to the presently claimed terminal, has a fixed and unique identifier as presently claimed. The Official action explained that the teachings of Fujinuma propose a portable terminal in paragraph [0037]. However, applicant respectfully notes that the mobile terminal proposed by Fujinuma is associated with a person (i.e., staff member) and not with a construction machine as required in the present claims. Furthermore, assuming the vehicle (tracking) computer in Coffee has a unique identifier (as discussed at column 18, lines 33-44 therein, which was noted by the Official action), for what reason would one of ordinary skill in the art include another fixed and unique identifier in a mobile terminal and then somehow associate this terminal with the vehicle in Coffee? In other words, there is no reason why one of ordinary skill in the art would include a fixed and unique identifier in a mobile terminal, as allegedly proposed by Fujinuma, and then use the same in the vehicle proposed by Coffee. One reason for this is that the vehicle proposed by Coffee already contains a tracking computer with a 30 bit tracker ID assigned at the factory. At least for these reasons, applicant respectfully submits that the combined teachings of Coffee and Fujinuma cannot establish a *prima facie* case of obviousness for the presently claimed invention.

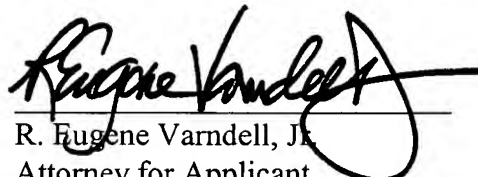
In addition, it is respectfully noted that the teachings of Fujinuma may not be an appropriate reference against the claims of this application, because these teachings were published after the effective filing date of the present application, based on the priority claim from Japanese 2003-008592. Therefore, applicant respectfully requests that the examiner withdraw the teachings of Fujinuma or cite a corresponding teaching with an appropriate publication date.

For at least the foregoing reasons, applicant respectfully submits that claims 1-4, 6, 9, 11, 13, and 15-26 are patently distinguishable from the teachings of Coffee and Fujinuma within the meaning of 35 U.S.C. §103. Therefore, applicant respectfully request that the examiner reconsider and withdraw the rejection as set forth in the outstanding Office action over these teachings.

In view of the foregoing amendments and remarks, favorable consideration and allowance of claims 1-4, 6, 9, 11, 13, and 15-26 are respectfully requested. While it is believed that the present response places the application in condition for allowance, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The fee therefor, as well as any other fees which may become due, may be charged to our deposit account No. 50-1147.

Respectfully submitted,  
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